



**NEVADA COMMISSION ON ETHICS
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO. 05-11

SUBJECT: MICHAEL MONTANDON, MAYOR
CITY OF NORTH LAS VEGAS

A. JURISDICTION:

As Mayor of the City of North Las Vegas, Michael Montandon is a public officer as defined by NRS 281.4365. As such, the Commission has jurisdiction over the complaint.

B. REPORT OF INVESTIGATIVE ACTIVITIES:

- Reviewed Request for Opinion 05-11 (Tab B)
- Reviewed subject's response dated March 9, 2005 (Tab C)
- Reviewed subject's Nevada Financial Disclosure Statements dated January 5, 2005 and March 9, 2005 (included under Tabs B and C, respectively)
- Conducted comprehensive search regarding subject's corporate holdings and property interests.
- Reviewed current Nevada Secretary of State corporate information regarding Tonopah and Tidewater Railroad Co. (Tab D)

C. RECOMMENDATIONS:

Based on investigative activities, the Executive Director recommends the Panel find just and sufficient cause **EXISTS** for the Commission to hold a hearing and render an opinion in this matter relating to:

- NRS 281.571(1)(f).

SPECIFIC REASON(S):

Sufficient credible evidence exists to support a finding of just and sufficient cause for the Commission to hold a hearing and render an opinion regarding whether the subject of the complaint violated the above provision of NRS Chapter 281.

D. SUMMARY OF REQUEST FOR OPINION:

The request for opinion alleges Mr. Montandon violated NRS 281.571(1)(f) by failing to disclose he was an officer with Tonopah & Tidewater Railroad Co. at the time he filed his 2005 financial disclosure statement.

E. SUMMARY OF SUBJECT'S RESPONSE:

In his response, Mr. Montandon provided the following:

- He admits that he failed to disclose the fact that he was an officer with Tonopah & Tidewater Railroad Co. (hereinafter 'T&T Co.') on his 2005 financial disclosure statement;
- He has filed an amended statement with the Secretary of State and with the City Clerk at the City of North Las Vegas;
- He has a friend who is a train buff and who mentioned to Montandon that the historical Tonopah & Tidewater Railroad no longer existed as a corporate entity;
- His friend was going to file a new Tonopah & Tidewater Railroad Corporation with the Secretary of State and asked Montandon if he wanted to be on the board. Montandon agreed;
- Montandon did not hear anything about T&T Co. after that and simply forgot about it;
- T&T Co. has no assets and no business license, and it has never conducted a business transaction; and
- Montandon has since resigned from the board.

F. PERTINENT STATUTES AND REGULATIONS:

NRS 281.571 Contents; distribution of forms; costs related to production and distribution of forms.

1. Statements of financial disclosure, as approved pursuant to NRS 281.541 or in such form as the Commission otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this state or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

G. RESULTS OF INVESTIGATION:

Mayor Montandon timely filed his Nevada financial disclosure statement pursuant to NRS 281.561 on January 5, 2005; however, he acknowledges that he failed to disclose his relationship with T&T Co. on the statement.

T&T Co. is listed as a domestic corporation with the Nevada Secretary of State. The corporation was formed on July 9, 2004. At the time the complaint was filed, Montandon was listed as the corporation's secretary, and Mitchell Truman (hereinafter 'Truman') as the president. On July 25, 2005, a new list of corporate officers was filed and Montandon is not on the list.

Montandon claims he agreed to serve as an officer of the corporation at the request of Truman. Montandon claims after agreeing to serve, he heard nothing further regarding the corporation and simply forgot about it. There is no evidence to indicate the T&T Co. generated any income or transacted any business during the time Mr. Montandon served as a corporate officer.

After receiving the ethics complaint, Montandon acknowledged his oversight and submitted an amended financial statement listing his position as an officer with T&T Co. with the Secretary of State's office on March 10, 2005. He further resigned as an officer of T&T Co.

Mayor Montandon was first elected to office in July, 1997, and began his second four-year term in July, 2001. Having filed a financial disclosure statement for the last eight years, he should be fully aware of the statutory requirements. Though he seems to have made an honest oversight, the oversight appears to violate the provisions of NRS 281.571(1)(f).

Based on the above investigative activities and analysis, the Executive Director believes sufficient credible evidence exists for the panel to recommend the full Commission hold a hearing and render an opinion regarding whether Mayor Montandon violated NRS 281.571(1)(f). Only the full commission has the authority to determine if the conduct of Mayor Montandon in relation to this issue rises to the level of a violation of state law.

H. CONCLUSION:

The Executive Director hereby recommends the panel find just and sufficient cause exists for the Commission to hold a hearing and render an opinion on the allegation that the subject violated NRS 281.571(1)(f).

DATED: October 26, 2005 Stacy M. Jennings
STACY M. JENNINGS, MPA
EXECUTIVE DIRECTOR